



U.S. Citizenship  
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FILE: [REDACTED] Office: Vermont Service Center Date: **JAN 12 2007**  
[EAC 01 191 51479]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration  
and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to  
the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application because the record did not contain a response from the applicant to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. Therefore, the director determined that the grounds of denial had not been overcome.

On appeal, the applicant asserts his eligibility for TPS and submits evidence in support of his claim.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under § 244.3;
- (e) Is not ineligible under § 244.4; and
- (f)
  - (1) Registers for Temporary Protected Status during the initial registration period announced by public notice in the FEDERAL REGISTER, or
  - (2) During any subsequent extension of such designation if at the time of the initial registration period:
    - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
    - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
    - (iii) The applicant is a parolee or has a pending request for reparole; or

- (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

The phrase continuously physically present, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

The phrase continuously resided, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

Persons applying for TPS offered to El Salvadorans must demonstrate entry on or prior to February 13, 2001, continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted by the Secretary of the Department of Homeland Security, with validity until September 9, 2007, upon the applicant's re-registration during the requisite time period.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by Citizenship and Immigration Services (CIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

Along with his TPS application, the applicant submitted the following documentation:

1. Copies of the biographical pages of his El Salvadoran passport and personal identification card;
2. Copies of his Boarding Pass from American Airlines bearing a date of "13APR", and Passenger Ticket;
3. An affidavit dated March 26, 2001, from [REDACTED] who stated that he has know the applicant since April 1999, and the applicant lived at [REDACTED] in Hyattsville, Maryland; and,
4. An affidavit dated March 26, 2001, from [REDACTED] who stated that he has known the applicant since April 1999, and the applicant lived at [REDACTED], in Hyattsville, Maryland.

On November 12, 2002 and on June 17, 2003, the applicant was requested to submit evidence establishing his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001, to the date of filing his application. On August 20, 2003, the director denied

the application because she determined the record did not contain a response from the applicant, and thus, the grounds for denial had not been overcome.

On appeal, the applicant submits the following in support of his eligibility for TPS:

5. Copies of two Notice of Cancellation of Automobile Policy from Leader Insurance Company dated March 20, 2001 and May 21, 2001;
6. A copy of a Virginia Insurance Identification Card bearing an effective date of September 16, 2000 to September 16, 2001;
7. Copies of monthly billing invoices from [REDACTED], reflecting payment due dates of November 11, 2000, January 11, 2001, March 11, 2001, April 11, 2001;
8. A copy of a Vehicle Emissions Inspection Report dated April 7, 2001, from the Virginia Department of Environmental Quality; and,
9. A copy of an application for a vehicle decal bearing a date of July 27, 2001.

A review of the documentation submitted on appeal, as detailed in Nos. 5, 6, 7, and 9 above, reflects an address of [REDACTED], in Springfield, Virginia. However, on his applications for employment authorization and temporary protected status, the applicant does not claim an address in Springfield, Virginia. It is noted that the applicant claimed on his initial TPS application which he signed on March 27, 2001, that he resided at [REDACTED] in Hyattsville, Maryland. In addition, the statements from [REDACTED] and [REDACTED], as detailed in Nos. 3 and 4 above, indicate that the applicant resided at [REDACTED] in Hyattsville, Maryland. Further, the applicant claimed on his application for TPS re-registration, signed on July 25, 2002, that he resided at [REDACTED] in Washington, D.C. Additionally, the copies of his boarding pass and passenger ticket, as detailed in No. 2 above, are not legible and do not contain the year in which he took his flight. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the discrepancies in his residence in the United States. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish his continuous residence and his continuous physical presence in the United States described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has not met this burden.

**ORDER:** The appeal is dismissed.